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Filer:	James E. Hendry
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San Francisco Water Power Sewer
Services of the San Francisco Public Utilities Commission
525 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

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Rulemaking to Amend Regulations Governing the Power Source Disclosure Program
Comments of the San Francisco Public Utilities Commission (SFPUC)

The San Francisco Public Utilities Commission (SFPUC) on behalf of the City and County of San Francisco offers the following comments in this rulemaking on the proposed regulations and supporting Initial Statement of Reasons (ISOR)[1] and associated documents. The SFPUC operates both Hetch Hetchy Power (HHP), a publicly-owned electric utility, as well as CleanPowerSF, San Francisco's Community Choice Aggregator (CCA). Both HHP and CleanPowerSF submit their annual Power Source Disclosure (PSD) and Power Content Label (PCL) filings to the California Energy Commission (CEC) and will be subject to SB1158's hourly reporting requirements starting in 2028.[2]

The SFPUC offers the following comments;

1. The SFPUC appreciates many of the changes the CEC has made in response to the comments of the SFPUC and others.
2. The CEC does not have the statutory authority to require the inclusion of losses into the Power Source Disclosure (PSD) Report.
3. If loss-adjusted load is included in the annual PSD reporting, this requirement should not go into effect until after the 2025 reporting year (report due June, 2026).
4. Proposed Loss Factors seem high, need further analysis, and retail sellers should have flexibility to develop their own loss factors.
5. The SFPUC supports the use of the "Stacking Order."
6. The use of "net specified purchases" to determine "fuel mix, GHG emissions, and GHG emissions intensity" violates PCL requirements, is inconsistent with RPS regulations wrongly credits GHG emissions, and distorts the GHG intensity of "oversupply."
7. PCIA Resources Should not be Considered in the PSD/PCL.
8. Various modifications need to be made to proposed changes to the PSD/PCL specifically the inclusion in the PCL of categories of energy required by statute.
9. The phrase "derived primarily from natural gas and other fossil fuels" should not be locked in through regulation but the CEC should have the flexibility to develop an accurate description of unspecified power.
10. The hourly reporting requirement will still be burdensome, costly, and be incorrectly compared with the current GHG reporting targets and metrics.

[1] Initial Statement of Reasons + Economic Analysis (Docketed May 17, 2024, TN#256446-2).
[2] Stats. 2022, Ch. 367.

Each of these issues is discussed below. Additionally, the SFPUC is incorporating by reference its pre-rulemaking comments on this rulemaking (TN# 252794, submitted October 23, 2023) that provide additional detail regarding many of the points raised below.

1. Reporting Burdens and Requirements

a. Attempts to reduce reporting burden

The SFPUC appreciates changes made to lessen the reporting burden. This includes allowing for the consolidated reporting of resources from the CPUC's Voluntary Allocation and Market Offer (VAMO) program,[3] consolidated reporting for resources operated by the Western Area Power Administration's hydroelectric system,[4] and the use of proxy load profiles for resources under 1 MW capacity[5] or for which generation data is not available.[6]

The SFPUC also appreciates and supports;

- Eliminating the need to separately attest to the accuracy of the PCL, as the PCL presents information that retail sellers have already attested to as part of their PSD;[7] and
- Assigning a zero-GHG emission factor for geothermal resources for PCL reporting.[8]

b. Consolidated reporting should be extended to other CPUC programs

Similar to VAMO, the CPUC has other programs that could allocate a portfolio of the investor-owned utilities' (IOU's) generating resources to retail sellers This includes the CPUC's recent decision (D.23-06-006) that allows but does not require the IOUs to allocate the GHG attributes of their hydroelectric generation to the CCAs and ESPs in their service territory.[9]

The CEC should expand eligibility for consolidated reporting to cover this and any future resource allocations authorized by the CPUC.

2. The CEC does not have the statutory authority to require the inclusion of losses into the Power Source Disclosure (PSD) Report

The proposed regulations would now include a calculation of losses (i.e. "loss adjusted load") into the annual PSD which in turn would be displayed to customers as "total power content." This proposal is based in part on SB1158's requirement that the CEC needs to calculate this

[3] Proposed Regulation Section 1393(e)(3).
[4] Proposed Regulation Section 1393(g)(1).
[5] Proposed Regulation Section 1394(c)(3).
[6] Proposed Regulation Section 1394(c)(1) and (2).
[7] ISOR, p. 43.
[8] ISOR, p. 51.
[9] CPUC D.23-06-006, (June 13, 2023), p. 17, 48. If the IOUs choose not to allocate these attributes they must credit the incremental GHG-value of this generation to the PCIA.

number as part of developing an hourly reporting requirement as well as an incorrect extrapolation of the CEC's authority under Public Utilities Code Section 398.1.

This reliance upon SB1158 is misplaced. SB1158's requirements are not effective until 2028, do not apply to the Power Content Label, and exceeds the statutory uses of the hourly data.

Indeed, the passage of SB1158 reconfirms that losses associated with retail sales are not to be included in the Power Content Label. In passing SB1158, the Legislature determined that "losses" are in addition to, and separate from "retail sales."[10] In contrast, the PSD/PCL is limited to reporting the "percentage of annual sales derived from…Electricity from unspecified sources [and] purchases of electricity from specified sources"[11] both of which are "defined as [an] electricity source' that has "been sold once, and only once, to a retail consumer",[12] in other words a "retail sale." Energy losses are not "sold once and only once to a retail customer."[13] There is no provision in the legislation authorizing the inclusion of losses (which are not part of retail sales) into the PSD/PCL.

A common precept of statutory construction is that when the Legislature adopts new phrases or terms it is aware of its usage in other parts of the law. While the legislature sought to include a loss calculation for hourly load (contained in PU Code 398.6) it could have, but did not, choose to make a corresponding change to PSD/PCL reporting (contained in PU Code 398.4).

the CEC also incorrectly relies on the language of PU Code 398.1 that the PCL provide "for reliable, accurate, timely, and consistent information regarding fuel sources for electric generation offered for retail sale in California."[14] As noted above losses are not "offered for retail sale" Immediately following Section 398.1 is Section 398.2 which "set forth" the definitions that "shall govern the construction of this article"[15] that reconfirm that only retail sales are to be included in the PSD/PCL. This includes the limitations that it applies to "retail suppliers" offering an electricity product for sale to retail customers" [16] that have been "sold once and only once to a retail customer."[17]

Accordingly, the CEC cannot include any "loss-adjusted load" or "total power content" reporting obligation in the PSD/PCL.

[10] PU Code 398.6(a)(4): "Loss-adjusted load" means the total amount of electricity, measured at the utility-scale generation source, that a retail supplier requires *in order to provide for retail sales after electrical losses in transmission and distribution*.(Emphasis added)
[11] PU Code 398.4(g)(1)(A) and (B).
[12] PU Code 398.2(d) and (e).
[13] Ibid.
[14] PU Code 398.1.
[15] PU Code 398.2.
[16] PU Code 398.2(b).
[17] PU Code 398.2(d) and (e).

3. If Loss-adjusted Load is Included in the Annual PSD Reporting, this Requirement Should not go into effect until after the 2025 Reporting Year (due June, 2026)

The CEC should delay inclusion of loss-adjusted load in PSD/PCL reporting until after the completion of the 2025 calendar year (due June, 2026). As Cal-CCA states in their comments, the proposed 2025 reporting date will disadvantage retail sellers by not giving them time to modify their procurement choices and for CCAs to develop appropriate loss factors. These have reputational and cost consequences for CCAs that raise concerns over retroactive changes to regulatory requirements.

Other changes to the reporting requirements, that do not affect how a retail seller complies with the new reporting requirements should be implemented in time for the 2024 reporting year (due June, 2025). This includes classifying geothermal resources as GHG-free and the use of consolidated reporting for VAMO and WAPA resources. None of these changes would affect how a retail seller responds to the changed regulations.

Additionally, the CEC may need additional time to fully develop and vet its new formula for calculating unspecified power's GHG-emissions,

4. Proposed Loss Factors seem high, need further analysis, and retail sellers should have flexibility to develop their own loss factors

a. The proposed loss factors seem high and should be subject to additional verification before their use

In its pre-rulemaking proposal, the CEC proposed loss factors of 4% for in-state generation and 6% for out-of-state imports. The SFPUC proposed a loss factor of 2% for load served at transmission level. [18] These numbers seem more in line with loss factors commonly used in the utility sector. The U.S. Energy Information Administration (EIA) estimates losses from 2018 to 2022 of about 5%.[19]

The newly proposed loss factors are now two to three times higher (5% to 13% depending upon service territory) based on the CEC's IEPR process. There is no explanation in the ISOR for this significant increase and wide disparity. The CEC itself seems to question the validity and broad applicability of these loss factors, allowing retail sellers to document the use of more accurate numbers, a proposal the SFPUC supports.

Absent further justification and clarity as to the validity of these numbers, the CEC should either revert to the numbers initially proposed by the CEC in its pre-rulemaking process or use the EIA numbers as the default number.

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[18] COMMENTS OF THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION ON PROPOSED CHANGES TO THE POWER SOURCE DISCLOSURE REPORTING REQUIREMENTS, October 26, 2023.p. 10

[19] U.S. EIA FREQUENTLY ASKED QUESTIONS (FAQS); How much electricity is lost in electricity transmission and distribution in the United States? (. https://www.eia.gov/tools/faqs/faq.php?id=105&t=3)

b. <u>There should be a separate calculation of transmission losses for PG&E of 2.5% as recognized by the IEPR</u>

In its initial comments the SFPUC proposed the use of a lower (2%) loss factor for load served at transmission level, as this load does not use the utility's distribution system.[20]

The proposed regulations overlook that the IEPR process already provides separate loss factors for transmission and distribution. In the case of PG&E's service territory, while the combined loss factor for transmission/distribution service is 9.1%, the supporting IEPR documentation shows a transmission loss factor of only 2.5%, almost 3/4th less.

As PG&E explained its energy demand calculations for the IEPR;

> Losses include distribution, *transmission*, and unaccounted for energy for bundled, DA, and CCA customers (losses associated with BART loads are not included.) [21]

For PG&E's "Form 1.2 Distribution Area Net Electricity for Generation Load";

> *<u>Transmission losses and unaccounted for energy for historical and forecasted load are assumed to be 2.5%</u>* and 0.5%, respectively, consistent with resource adequacy counting rules.[22]

This same approach also was used by PG&E for its "Form 1.6a Recorded LSE hourly loads for 2021, 2022 and Forecast Loads for 2023." [23]

Consistent with the CEC's goals expressed in the I SOR for "leveraging existing data"[24] and ensuring that reported loss data "is accurate and reliable", the SFPUC and other retail sellers should be able to use the separate transmission and distribution loss factors contained within the IEPR depending upon the voltage level a customer receives service.

c. Use of Loss Factors approved in FERC Tariffs should be a de facto option for use by retail sellers.

The SFPUC appreciates that the proposed regulations allow retail sellers to document the use of different transmission and distribution loss factors other than those used in the IEPR. The CEC should pre-approve the use of loss factors that are already in FERC-approved tariffs.

[20] Based on industry studies, losses for load served at the transmission level are only about 1/3rd of the losses incurred for load served at the distribution level.
[21] PG&E Electricity Demand Form 4 – Methods and Models, p. 2 (submitted to the CEC on August 1, 2023 in Docket 23-IEPR-03, TN#251423).
[22] Ibid., p. 3.
[23] Ibid., p. 33. "T]ransmission losses and unaccounted for energy (UFE) are calculated as 3 percent of load per Resource Adequacy instructions."
[24] ISOR, p. 20.

The SFPUC's distribution service is provided by PG&E under a FERC-approved Wholesale Distribution Tariff[25] that specifies the loss factors for providing this service.[26] This same tariff is also used to provide distribution services to other POUs.[27]

Many Southern California POUs have similar FERC tariffs.

The SFPUC should not need to re-justify the use of these numbers to the CEC as they have already been litigated, found reasonable, and are part of a federally enforceable tariff agreement. Allowing use of these numbers is also consistent with the ISOR's goal to minimize duplication and conflict with federal regulation.[28]

d. On-site utility generation should be assigned a zero loss factor.

The SFPUC has over twenty solar facilities where both generation and load are located on-site. These on-site facilities are located on the utility (not the customer-side) of the meter and thus are both RPS-eligible and included in the SFPUC's retail load. Utility on-site generation avoids use of the transmission/distribution system resulting in negligible losses,

Retail sellers should be able to assign a zero-loss factor for these resources.

5. The SFPUC supports the use of the "Stacking Order"

The SFPUC supports the proposed regulations allowing retail sellers that over-procure resources above their retail needs to adopt a "stacking order" to allocate their surplus generation in order to retain credit for their lower-GHG emitting resources.

The SFPUC also supports the elimination of the requirement that retail sellers had to report generation from their gas-fired power plants even if was surplus to their retail needs and instead was being used to meet system reliability needs.

As noted below, however, the proposed regulations need to exclude both specified and unspecified sales that are not used to meet retail load as part of the "Stacking Order" in calculating a retail seller's fuel mix and GHG emissions.

[25] PACIFIC GAS AND ELECTRIC COMPANY Wholesale Distribution Tariff FERC Electric Tariff Volume No. 4 Effective January 1, 2024

[26] Attachment D to the Wholesale Distribution Tariff.

[27] This includes the Port of Oakland, Power and Water Resources Pooling Authority ("PWRPA"), Shelter Cove Resort Improvement District No. 1, Western Area Power Administration ("WAPA"), and the Westside Power Authority. (Informational Filing of Pacific Gas and Electric Company Wholesale Distribution Tariff, FERC Electric Tariff Volume No. 4, Annual Update for Rate Year 2024 under the Formula Rate in Docket No. ER20-2878-000, et al filed December 1, 2023 (p. 1, ftn 3).

[28] ISOR, p. 58.

6. The use of Net Specified Purchases" to Determine "Fuel Mix, GHG Emissions, and GHG Emissions Intensity" Violates PCL Requirements, is Inconsistent with RPS Regulations Wrongly Credits GHG Emissions, and Distorts the GHG Intensity of "Oversupply"

a. The PCL is limited solely to reporting generation used to meet retail sales

The PCL represents the mix of energy resources used to serve retail load.[29] [30] Wholesale sales (including sales from one retail seller to another) are not and cannot be included in the PCL.[31]

To implement this requirement, the current PSD takes the "Gross MWh Procured" by the retail seller, subtracts out energy that is resold ("MWh Resold") and leaves the energy that is available to meet retail demand ("Net MWh procured").

The proposed regulations would substitute the more detailed term "Specified Resales"[32] in place of the broader term "MWh Resold" claiming this is necessary to "ensure that retail suppliers use the correct value"[33] to determine the energy available to meet retail sales.

As described in the ISOR:

> Subtracting specified resales from gross specified purchases determines a retail supplier's net specified purchases. In turn, net specified purchases are matched to a retail supplier's loss-adjusted load and used to determine its fuel mix, GHG emissions, and GHG emissions intensity.[34]

This format is carried over to the proposed 2025 Annual Reporting Template[35] and the2028 Consolidated Reporting Template[36] which require the reporting for each generating unit of;

> "Gross MWhs MINUS "Specified Resales" EQUALS "Net MWh Procured"

The significant problem with this approach is that use of the narrower term "Specified Resales" overlooks that retail sellers can also make "unspecified sales" from their energy portfolio. As the CEC notes these unspecified sources of power can include;

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[29] The Power Content Label requires the reporting of "purchases of electricity from specified sources" and "electricity from unspecified sources" both of which are defined as an "electricity source claimed [that] has been sold once and only once to a retail customer." (PU Code 398.2(d) and (e). "Retail Sales means sales of electricity by a retail supplier to end-use customers" (Proposed Regulation Section 1391).

[30] As the ISOR, p. 29 states; "An electricity portfolios' GHG emission intensity will be calculated according to the emissions produced to meet retail sales, as required by PU Code 398.4."

[31] As the ISOR states, the existing methodology calculates "purchases as "gross purchases" minus "wholesale sales." (ISOR, p. 14)

[32] ISOR, p. 11,14

[33] ISOR, p. 11

[34] ISOR, p. 11.

[35] TN#: 256446-5, May 17, 2024.

[36] TN#: 256446-4, May 17, 2024

> …[E]lectricity that is not traceable to a specific generating facility, such as electricity traded through open market transactions. Unspecified sources of power are typically a mix of resource types and may include renewables. This category can also include spot market purchases, wholesale energy purchases, and purchases from pools of electricity where the original fuel source can no longer be determined. It can also include energy from a CEC-certified renewable facility that has been sold separately from its renewable energy certificates, or RECs. Renewable energy sold without corresponding RECs is sometimes referred to as "null energy."[37]

The exclusion of these "unspecified sales" from calculating a retail seller's generation used to meet retail sales creates significant distortions in both their fuel mix and GHG emissions intensity as reported on the PCL.

b. <u>Excluding "Unspecified Sales" in PCL calculations give retail sellers credit for GHG emissions associated with generation that is not used to serve retail load</u>

By subtracting out only "Specified Resales" from a retail seller's generation portfolio, retail sellers can receive credit for GHG emissions associated with generation that the retail seller has sold off as unspecified power and is not being used to serve retail load.

Take for example a retail seller with 100 MWh of load and 100 MWh of generation that sells off 10 MWh of RPS-eligible generation as "null power." As this is an unspecified sale, it would not be subtracted from the retail seller's generation portfolio under the proposed regulations as only "specified resales" are subtracted.

For purposes of the PCL, this retail seller would report:

Procurement	Specified Sales	Unspecified Sales	Generation to meet Retail Load	Shortfall
100	0	n/a	100	0

This approach overlooks that the 10 MWh of generation from the RPS-eligible resource were sold off by the retail seller and thus was not used to meet retail load. It cannot be claimed on the PCL without violating the statutory guidance that the PCL is only to report generation used to meet retail load. While the retail seller retains the RECs associated with this generation these are now unbundled RECs associated with a wholesale, not retail sale, which also are prohibited from being included in calculating a retail seller's energy mix.[38]

[37] CEC 2022 Total System Electric Generation (ca.gov) report

[38] In addition to the RECs not being associated with energy used to serve retail load, Proposed Section 1392(a)(1) also states" that Unbundled RECs…shall not be used to calculate or adjust the fuel mix or GHG emissions intensity of an electricity portfolio." .

Including unspecified sales into the CEC's calculations corrects this error and provides an accurate description, consistent with the PCL guidelines, of how this retail seller met its retail needs as shown below.

Procurement	Specified Sales	Unspecified Sales	Generation to meet Retail Load	Shortfall
100	0	10	90	10

The 10 MWh of unspecified sales from the RPS-eligible resource would be assigned a zero-GHG emission factor and included in the calculation of the system-wide GHG emission intensity of "unspecified power."

Even in cases of "oversupply", the exclusion of unspecified sales skews results.

For example, a retail seller has 150 MWh of generation (50 MWh of which is RPS-eligible, 100 MWh fossil), a load of 100 MWh and has sold off 10 MWh of its RPS eligible energy as an "unspecified sale."

Under the CEC's proposal, which only counts specified resales and not unspecified sales, the retail seller would report50 MWh of RPS energy and 50 MWh of fossil to meet 100 MWh of load; 50 MWh of fossil classified as over-supply as shown below.

Procurement	Specified Sales	Unspecified Sales	Generation to meet Retail Load*	Surplus
50 (RPS)	0	n/a	50	0
100 (fossil)	0	n/a	50	50

A more accurate description is 40 MWh of RPS energy and 60 MWh of fossil to meet 100 MWh of load with 40 MWh of fossil and 10 MWh of unspecified RPS null power classified as "over-supply as shown below.

Procurement	Specified Sales	Unspecified Sales	Generation to meet Retail Load*	Surplus
50 (RPS)	0	10	40	10
100 (fossil)	0	0	60	40

The difference is significant.

Under the proposed methodology the retail seller is 50% RPS and is receiving credit for 10 MWh of RPS energy not used to serve retail load. Under the correct methodology the retail seller is only 40% RPS.

The composition of unspecified sales also changes from 100% fossil to 80% fossil/20% renewable which in this example lowers the GHG intensity of unspecified sales from 941 lb./MWh to 750 lb./MWh.[39]

c. Excluding "unspecified sales" from the calculation of a retail seller's load is inconsistent with RPS regulations

As the ISOR states;

> The Renewables Portfolio Standard (RPS) is a state program that is frequently referenced in the PSD regulations because many of the eligible renewables under the PSD program are defined relative to their eligibility under the RPS. To align and harmonize with other state climate policy and programs, *the PSD regulations intentionally consider and reference the RPS program, including their accounting practices*.[40]

The "accounting practices" of California's RPS program has essentially created a new category of energy usage as described above – "null power" which paradoxically is the sale of unspecified energy without the associated RECs from a specified (i.e. RPS-eligible) source. These are the mirror image of "unspecified purchases." Symmetry requires that for every "unspecified purchase" there needs to be a corresponding "unspecified sale" and PSD/PCL reporting should achieve that symmetry.

The proposed regulations recognize this mirror image problem but it is not reflected in the calculation of the resources available to meet a retail seller's demand.

For example;

- Proposed Sections 1392(a)(4) and (a)(5)(b)) require that; "Electricity **purchases** from an eligible renewable generator without the associated RECs shall be classified as unspecified power; while
- The ISOR[41] addresses the mirror image that the "retail suppliers that have **sold** the RECs associated with purchases from an eligible renewable generator must report these purchases as unspecified power.

Similar treatment applies to procurements from nuclear or large hydroelectric generating units that;

> … cannot be classified as specified purchases if the associated environmental attributes have been claimed by, or traded to, a separate party (Proposed Section 1392(a)(3).

[39] Assuming the current unspecified GHG-emission intensity of 941 lb/MWh, the correct and revised GHG-emission intensity would be 40 MWh X 941 lb/MWh plus 10 MWh of RPS-energy at 0 lb/MWh for a weighted average of around 750 lb/MWh.
[40] ISOR, p. 10.
[41] ISOR, p. 17.

. The proposed regulations' exclusion of these "unspecified sales" by a retail seller from the PSD calculations conflicts with the proposed regulation's goal of consistency with the RPS program.

d. <u>The proposed regulations themselves recognize the need to track and report "unspecified sales" to properly assign GHG-emissions</u>

As noted above, the "accounting practices" of California's RPS program has essentially created a new category of energy usage – "null power" which is the sale of unspecified energy from a specified (i.e. RPS-eligible) source. The CPUC and CEC have extended this concept for IOU resources where the generation is either providing system benefits (i.e. CAM) or the IOU is not entitled to claim the associated GHG-benefits (i.e. Diablo Canyon.)

As Southern California Edison notes;

> Through multiple decisions issued by the CPUC, the IOUs have been ordered to procure and/or manage and allocate the costs and attributes of certain generation resources on behalf of other retail suppliers.
>
> ….
>
> To account for these resources in the context of the PSD program, the Revised Amendments propose that the IOUs submit a report of all resources that are allocated to other retail suppliers.[42]

These resources have traditionally been allocated as "unspecified power."

In the case of PG&E's Diablo Canyon power plant, for example, proposed regulation 1394(e)(2) requires PG&E to;

> …report the portion of GHG-free energy attributes from Diablo Canyon Nuclear Power Plant that were not allocated to other retail suppliers. This provision is necessary because not all retail suppliers claim their share of GHG-free energy attributes from this facility under CPUC Decision 23-12-036. Requiring these unclaimed resources to be reported ensures the accuracy of PSD data. The CEC will factor unclaimed Diablo Canyon generation into oversupply and <u>use it to calculate the emissions factors for unspecified power.</u>[43]

To address this requirement, PG&E is proposing that the definition of "unspecified power" be expanded so that it;

> …also includes electricity that is derived from Diablo Canyon Power Plant's extended operations pursuant to any unallocated GHG-free energy attributes under California Public Utilities Commission Decision 23-12-036.[44]

[42] SCE Comments on Pre- Rulemaking for Power Source Disclosure Comments, p. 2 (Feb. 22, 2024, TN#254635)
[43] ISOR, p. 31-32.
[44] PG&E Pre-Rulemaking Amendments to the Power Source Disclosure Program p. 2 (February 21, 2024),

A similar problem exists for the reporting of IOU resources subject to the Cost Allocation Mechanism (CAM). CAM resources, by definition, are resources needed to meet overall grid reliability and are not assigned to any specific buyer. In this case, the proportional share of generation (and associated GHG emissions) from these resources not used by the IOU is not a "specified resale" but instead is classified as "unspecified power."

In both of these cases, the IOU is required to report the generation as an "unspecified sale" even though it is tied to a specific resource (i.e. a CAM resource or Diablo Canyon).

Yet, in the proposed reporting templates there is no column for an IOU to subtract these unspecified sales from its resource portfolio.

e. <u>The magnitude of these "unspecified sales" is significant, and absent inclusion in the PSD/PCL calculations, will distort PCL and GHG emission reporting</u>

The failure to address the treatment of unspecified sales in the PSD/PCL not only affects the GHG-composition of unspecified power but also incorrectly credit retail sellers for GHG reductions that were not used to meet retail load.

The magnitude of this under- and mis-reporting is significant. Given their value and ability to meet SB100 GHG-reduction goals, one would expect that close to 100% of hydroelectric and RPS-eligible renewable energy would be claimed on retail sellers' PSDs. Yet as the CEC's analysis shows, 8% of this energy is not claimed as a specified purchase, equal to over 10 million MWh.[45] A significant portion of these unclaimed sales could be attributed to null sales of unspecified power from RPS-eligible resources. As required by the CPUC, and reflected in the proposed regulations, up to ½ of the output from PG&E's Diablo Canyon Power Plant (8 million MWh)[46] will likely be required to be claimed as "unspecified power" with a zero-GHG emissions factor. CAM resources further add to these totals. By comparison, total unspecified sales in 2022 were only 55 million MWh[47] which includes all unspecified imports from outside California (20 million MWh),[48] an energy source that is already declining as other states retain this generation to meet their own native load requirements.

[45] According to the CEC's 2022 Total System Electric Generation (ca.gov) report, total California electric sales were 287 million MWh, 45% of which came from hydroelectric/RPS-eligible renewables. 8% of this generation equals 10.3 million MWh.

[46] According to the CEC's 2022 Total System Electric Generation (ca.gov) Diablo Canyon generation was 17.627 million MWh in 2022. PG&E is required to offer about ½ of this output to other retail sellers in PG&E's territory (CCAs and Energy Service Providers) and few if any of these retail sellers have accepted previous opportunities to accept this allocation.

[47] ISOR, p. 8 ftn 11.

[48] Ibid.

f. The CEC needs to ensure "unspecified sales" are included in the PSD/PCL calculations

The only way to properly assign generation and GHG-emissions is for the proposed regulations to include an "unspecified sales" category into its calculation of energy available to serve retail load as shown below.

> "Gross MWh Procured" LESS "Specified Resales" LESS "unspecified sales from specified resources" EQUALS "Net MWh procured" to meet retail demand.

This category would include at a minimum, "null power" from RPS/GHG-free resources, unclaimed Diablo Canyon generation (as proposed by PG&E), and the portion of CAM resources not used by the IOU.

Under the PSD legislation, the CEC has the statutory authority to create new categories of energy usage.[49] California's RPS program, and CPUC/CEC decisions have essentially created a new category of energy usage – "null power" or the sale of unspecified energy from a specified source that needs to be reflected in the PSD/PCL calculations. Indeed, the existing regulations may already require the reporting of "unspecified sales" from "specified sources."[50]

7. PCIA Resources Should not be Considered in the PSD/PCL

As Cal-CCA has stated in its comments, the proposed regulations should not allow IOUs to exclude PCIA eligible resources from their PSD/PCL calculations.[51]. As Cal-CCA notes, there is a significant difference in the use and cost treatment of "PCIA-eligible" resources compared to the treatment of CAM resources,

Additionally, since essentially all of an IOU's resources are "PCIA-eligible,"[52] adoption of this requirement would conflict with the reporting of almost all of these resources as either "specified purchases" or "specified resales." A significant portion of each IOU's "PCIA-eligible" RPS resources are not being used by the IOUs but have instead been allocated to retail sellers as "specified sales" through the VAMO process. The remainder of the IOU's PCIA-eligible RPS resources not taken in the VAMO process will be claimed by the IOU for their own use as "specified purchases", as the IOUs have announced that they are short in meeting their future

[49] While as discussed further below, the CEC is statutorily required to include certain categories in the PCL, the CEC also has the authority to add additional categories (PU Code 398.4(h)(6)).

[50] PU Code 398.4(g) (1) requires that; "A retail supplier's disclosure of its electricity *sources shall be expressed as a percentage of annual sales derived from each of the following categories*…(A) Electricity from unspecified sources; [and] (B) Purchases of electricity from specified sources. PU Code Section 398.4(h) then requires that for "*Each of the categories specified in subdivision (g)"* which includes "unspecified sources they " "*shall be additionally identified*" in their appropriate energy category (e.g. wind, solar, etc.) There is no distinction in the legislation between the need to assign specified or unspecified resources to an appropriate energy category.

[51] Proposed Regulation Section 1393(e)(1).

[52] Although actual PCIA responsibility to an individual customer is dependent upon when the customer left IOU service.

RPS obligations.[53] Under CPUC decision D.23-06-006 the IOUs can choose to retain for their own use all of their "PCIA-eligible" GHG-free hydroelectric generation. PG&E's Diablo Canyon plant will be removed from the PCIA after its initial licensing period ends.

As a result, other than a few gas-fired power plants (those not subject to CAM treatment) and system purchases almost all of an IOU's resources "subject to the PCIA" will be claimed as specified purchases, either by the IOU itself or through the VAMO or other allocation process. The IOUs can address any remaining PCIA-eligible generation in two different ways. First, if they are over-supplied they can off-load these resources as not being used to meet retail demand under the "stacking order.". Second, the SFPUC's proposal to add a "unspecified sales" category to PSD reporting provides the IOUs additional flexibility to off-load this generation.

8. Comments on the Proposed Changes to the PSD/PCL

a. The CEC should formally make available the PCL template and allow parties the opportunity to review and comment, before adoption of the final regulation

None of the official rulemaking documents provide a template of what the revised PCL would look like. The only "sample label" provided was clearly marked as a "staff design" that is not part of the rulemaking package." [54]

During the last PSD rulemaking the CEC provided the proposed Power Content Label Template for review as part of the rulemaking.[55]

Absent a template of the proposed "new" PCL, it is not possible for parties to ensure it meets the statutory requirements to be "accurate, reliable, and simple to understand." [56]

The CEC should provide its proposed PCL template in a supplemental 15-day package for parties to review.

b. The Goals of SB100 could be included in the PCL

The CEC is proposing changes to the PCL to better explain how a retailer seller is meeting California's energy goals set by SB100. If that is the CEC's intent, then a description of SB100's goals could be directly included into the PCL.[57]

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[53] See for example, PG&E Advice Letter 7105-E (filed December 19, 2023 and approved by the CPUC on May 8, 2024) where PG&E states it "currently forecasts a physical, short RPS position" and "is actively seeking to procure RPS resources to meet future RPS compliance needs and to comply with Commission procurement directives in the IRP." (p.2-3).

[54] PSD Rulemaking Workshop Presentation, p. 15 (TN #: 256776, June 11, 2024).

[55] Proposed Power Content Label Template (Oct. 2019) (Docket: 16-OIR-05, #TN229937, Oct. 2, 2019).

[56] As discussed below, the proposed PCL does not contain the energy categories required by statute to be listed on the PCL.

[57] For example, at the top of the PCL could appear the statement; "California has set a goal that 100% of its electric energy will come from greenhouse gas (GHG)-free resources by 2045, and at least 60% of its electric energy will

c. The CEC is statutorily prohibited from removing the energy categories "Eligible Renewable" and "Eligible Hydroelectric" from the PCL

In claiming to seek consistency with the goals of SB100, the proposed regulations remove the energy categories "Eligible Renewable" and "Eligible Hydroelectric" from the PSD/PCL.

PU Code 398.4, which governs the content of the PCL requires that for;

…

> (h) *Each of the categories specified in subdivision (g)* …[(A) Electricity from unspecified sources; [and] (B) Purchases of electricity from specified sources] *shall be additionally identified* as a percentage of annual sales that is derived from the following fuels, sources of energy, or electricity products [including]:
>
> …
>
> (5) Eligible renewable energy resources…[and]
> (C) Eligible hydroelectric.

This portion of the PSD/PCL is set by statute, and the CEC does not have the authority to change or eliminate these categories from PCL reporting.

Second, the term "Eligible" in "Eligible Renewable" is a critical component as it distinguishes those renewables that qualify for the RPS program versus those that don't. As the ISOR states, the RPS program is "frequently referenced in the regulations" and the "PSD regulations intentionally consider and reference the RPS program." .[58] It is odd that in other parts of the proposed regulation, the CEC feels a need to explain what the RPS program is, adding it as a new definition to the proposed regulations[59] while not including required RPS definitions in the PCL provided to the public.

Given its importance in achieving "state climate and policy goals,"[60] keeping the term "Eligible Renewables" provides important information for consumers.

d. The replacement of the term "Eligible Hydroelectric" with "Small Hydroelectric" is prohibited by statute, inaccurate and does not improve clarity.

Equally troubling is the proposed replacement of "Eligible Hydroelectric" with "Small Hydroelectric." This is a significant step backward in the evolution of the PSD/PCL and would replace a term required by legislation with another term which is not only inconsistent with statute but also incorrect.

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come from renewable energy sources that meet California's Renewable Portfolio Standard. This chart shows how [Retail Seller] is progressing toward achieving these goals.

[58] ISOR, p. 10.

[59] Proposed Regulation Section 1391.

[60] ISPR, p. 10.

The CEC's rationale is that;

> The category of "eligible hydroelectric" was changed to "small hydroelectric." This change is necessary to improve clarity; because the broader category of Eligible Renewables was removed, the term "eligible hydroelectric" is less clear to consumers.[61]

First, as noted above, both terms are required by statute to be included in the PSD/PCL and provide consumers with critical information on how well their retail sellers are meeting their RPS obligations. If the CEC believes the term "Eligible" is confusing to consumers, it should add a footnote defining what it means and its relation to California's RPS program.

Second, the CEC is replacing alleged clarity with statutory inaccuracy. "Small hydroelectric" under California's RPS program specifically refers in statute to a subset of hydroelectric facilities that are RPS-eligible solely due to their size (under 30 MW).[62] While the term "Small Hydroelectric" initially appeared as part of the early PSD/PCL reporting the last two updates to the PSD/PCL regulations use the broader and more accurate term "Eligible Hydroelectric"[63] to reflect that not all RPS-eligible hydroelectric generation meets the statutory definition of "small" but can qualify for RPS-eligibility through other means.[64] . The proposed regulations themselves continue to recognize this distinction defining "Large Hydroelectric" as "hydroelectric generation that is not eligible renewable"[65] while not offering any definition of "small hydroelectric."

e. The CEC has other means to show progress towards achieving SB100 goals in the PSD/PCL

The CEC's rationale for eliminating "Eligible Renewables" from the PSD/PCL is to incorporate all RPS-eligible categories into a broader category of "Renewable and Zero-Carbon Resources" to align PSD/PCL reporting with the SB100 goal of a 100% GHG-free system by 2045.

This realignment overlooks that SB100 has two major goals, a 100% GHG-free energy sector and a 60% RPS-eligible resource portfolio. Eliminating the category, "Eligible Renewable" does

[61] ISOR, p. 37.
[62] Public Resources Code 25741(a)(1).
[63] See Section 1391 – Definitions in the Modification of Regulations Governing the Power Source Disclosure Program Effective May 4, 2020 (Docket: 20-PSDP-01, TN #: 232986.) and Section 1391(c) of the Power Source Disclosure Program Amended Regulations Description: Effective October 31, 2016 (Revised Version) in Docket: 14-OIR-01, TN# 216978).
[64] This includes hydroelectric generation associated with some water conveyance units (up to 40 MW capacity) and incremental upgrades to hydroelectric facilities regardless of size. (PU Code 399.12(e)
[65] Proposed Regulation Section 1391

not allow customers to see how well their retail seller is progressing toward meeting this 60% requirement.

While the CEC does not have the discretion to remove required categories of energy from the PSD/PCL, the CEC does have the authority to add additional categories as the energy market evolves.[66] The passage of SB100 essentially created a new category of energy usage – "Zero Carbon" Resources.

A better approach would be for the PSD/PCL to consist of three broad categories;

- Eligible Renewables;
- Zero Carbon Resources (consisting of the existing required statutory categories of "Large Hydroelectric" and "Nuclear;" and
- Fossil Fuel and Unspecified Power.

This categorization keeps the statutorily required energy categories but re-arranges the order to better convey SB100's dual goals of a 60% RPS-eligible and 100% GHG-free electric system by 2045.

f. Retail Sellers should be allowed the flexibility to use other than full percentage points in the PCL

The proposed regulation "removes the requirement for fuel mix percentages to be rounded to the nearest tenth" to improve flexibility.[67] Retail sellers should have the flexibility to report in tenths of a percent, particularly if the use of full percentage points eliminates entirely the reporting of some small generating sources. The SFPUC, for example, operates the Southeast Wastewater Cogeneration Plant which provides less than 1% of HHP's energy needs. Use of full percentage points would round the generation from this unit down to zero, making it appear that HHP has no resources using this technology and creating a disconnect between what consumers physically know exists versus what is shown under the PCL.

Rounding to full percentage points also increases the consumer confusion that "numbers do not add to 100% due to rounding."

g. Hetch Hetchy Power's retail sales already include other uses of electricity

In preparing its PCL, HHP already includes in its "retail sales" all of its "electricity demand" including usage such as water pumping and self-use to be consistent with its RPS obligations.[68] Therefore, there will be no need for HHP to include these demands into the additional calculation of its "loss-adjusted load."

[66] PU Code 398.4(h)(6).

[67] ISOR, p. 36.

[68] HHP's RPS obligations are determined by it "electricity demands" not met by its hydroelectric generation (PU Code 399.30(j)).

9. <u>The CEC should have the flexibility to develop an accurate description of unspecified power as part of the PCL but it should not be mandated.</u>

The proposed regulations would add to the definition of "unspecified power" the phrase that it is ""derived primarily from natural gas and other fossil fuels."[69]

This phrase should be removed from the definition as extraneous.[70] The definition section should only offer a concise description of each phrase. There is no similar exposition for any other phrase or definition in the proposed regulations. [71]

Second, the yearly composition of unspecified power is a factual determination that will change yearly based on actual calculations of unspecified imports, unclaimed in-state natural gas, and annual oversupply.[72] Thus, for each year, the CEC should know, down to the percentage point the source of unspecified power.

Third, while in past years unspecified power may have been primarily from fossil fuels,[73] there is no guarantee this will continue as unspecified sales from PG&E's Diablo Canyon Nuclear Power Plant and null sales from RPS resources are included in the calculation of unspecified power and if out-of-state imports decline.

Given the above considerations, the phrase "primarily from fossil fuels" should be removed not only from the definitions section but also not mandated for use on the Power Content Label.

Elsewhere in the proposed regulations the CEC has eliminated proscriptive requirements in order to give the CEC more flexibility in preparing the PCL.[74] A similar approach should be used for defining "unspecified power."

Instead of mandated language, the CEC should have the flexibility of a graduated lexicon depending upon the actual composition of fossil fuels in the unspecified power mix. This lexicon could range from "a majority of unspecified power come from fossil-fueled generation" if the range is from 50% to 60%; "primarily comes from fossil fuels" if the range is from 60% to 80%, or "almost exclusively comes from fossil-fuels" if greater than 80%. Although it may not be likely, the CEC should also have the flexibility to use similar terms in the event that the

[69] Proposed Section 1391.
[70] Proposed Regulation Section 1391.
[71] The proposed regulations do not say for example; "RPS eligible resources, *which are primarily solar,"* or "nuclear power *which almost entirely comes from Diablo Canyon."*
[72] As noted in Section 5 of these comments, the calculation of "oversupply" needs to account for the unspecified sale of null power.
[73] ISOR, p. 8, ftn 11.
[74] For example, eliminating the requirements to show both the fuel mix in tenths of a percent (ISOR, p. 36) and the elimination of the requirement to include graphs on the PCL (ISOR, p. 37)

primary source of unspecified power changes (e.g. unspecified power "primarily comes from null power"[75].

10. The Hourly Reporting Requirement will still be Burdensome, Costly, and be Incorrectly Compared with the Current GHG Reporting Targets and Metrics.

a. Proposed changes to the Hourly Reporting Requirement

The SFPUC appreciates the attempt to lessen the reporting burden for the hourly reporting requirement. This includes trying to set up the templates so that only one data point for each facility needs to be entered into each cell. However, the following modifications need to be made to the hourly template.

First, as noted in Section 6 of our comments, a separate entry for each facility is needed to address unspecified sales/null power. Absent this modification, the hourly reporting, similar to the annual reporting template, will not properly assign resources and GHG-emissions. This includes retail sellers incorrectly claiming the GHG-benefits of RPS null power sales not used to meet retail load, and the need to account for where the resources and GHG-emissions should not be assigned to the retail seller (i.e. CAM resources and Diablo Canyon) due to CPUC/CEC guidance.

Second, a separate transmission loss factor needs to be added for each generating facility. The current template only assigns a single loss factor for all retail sales despite the proposed regulation allowing retail sellers to propose different methodologies. These methodologies, similar to the CEC's pre-rulemaking proposal, could propose assigning different loss factors depending upon the source of the generation with for example out-of-state resources being assigned a higher.loss factor than local (or on-site) generation.

Third, additional reporting templates for stand-alone storage needs to be established. Currently, there is only a single cell to report all of a retail seller's hourly storage injection/withdrawal data. For retail sellers operating multiple stand-alone storage facilities, this will require a retail seller to enter multiple data points into this cell. Instead, separate reporting for each stand-alone facility should be created, and then this data would be summarized (similar to generation data) into a single data point for the entire retail seller. This approach would also better align with the proposed regulations allowing retail sellers to specify the resource being used to inject into a storage facility.[76]

b. Data requirements for hourly reporting remain intensive and costly

[75] This might require the CEC to provide further information on what "null power" is, something they could do by having the flexibility to adjust the definition of unspecified power based on its actual composition.

[76] Proposed Regulation Section 1392(a)(5)(B) would allow "electricity storage resources to claim a GHG intensity associated with an eligible renewable generator, [provided] the energy used for production must be procured with the associated RECs." (ISOR, p. 17). Presumably this requirement would allow stand-alone storage facilities to be paired up with RPS resources.

Even with the proposed regulation's attempt to simplify reporting (as modified above), the amount of required data is still immense. For Hetch Hetchy Power, for example, this still requires hourly reporting for four data points for almost 30 facilities (approximately 10 actual data and 20 proxy data) or over one million data points. This compares to the approximately 120 data points Hetch Hetchy Power currently needs to complete its PSD/PCL filing.

It remains surprising, and inconceivable, that the ISOR concludes that there are zero to minimal costs to retail sellers to comply with the new hourly reporting requirement. Even though much of this hourly data may already be collected somewhere in the retail seller's operations, it will still need to be separately identified and downloaded into the CEC's proposed database. Consistent reporting protocols between the owner of a generating facility and the retail supplier will also likely require significant staff resources to align reported data with the PSD/PCL filing.

The ISOR also ignores the significant staff time and cost of re-verifying the submitted data after the CEC has completed its initial compilation. This includes not only ensuring reported data was accurately entered but also all of the secondary calculations (e.g. calculation of over/under supply, assigned GHG emissions, etc.) performed by the CEC's software programs to reflect actual retail seller resource mix/GHG intensity.

Unlike other hourly operating data, this information must be attested to, under penalty of perjury, by the POU or CCA's governing board. This will require extensive internal verification processes to ensure the data is accurate before a governing board can attest to its veracity.

By comparison, even complying with the annual reporting currently required under the PSD/PCL involves significant staff time to identify the data, ensure it is accurate, upload it to the PSD template, and provide sufficient verification and review to ensure data quality sufficient for governing board approval.

Nor does the ISOR provide sufficient documentation as to the costs the CEC itself will incur to develop the necessary software, perform its own internal verification and accuracy protocols, and respond to the inevitable outliers/missing or miscalculated data operation of such a large database requires. The ISOR does not even appear to include, or address the accuracy of, the initial $300,000 estimate that accompanied the legislative analysis of SB1158.

c. <u>The proposed regulations misconstrue the requirements of SB1158</u>

The ISOR states that there should not be "parallel treatment" between reported GHG emissions and avoided GHG emissions because it has the potential to convey parity" between avoided emissions and actual GHG emissions which is counter to the intent of SB1158."[77] This statement is not supported by the actual language of SB1158 which newly established both reporting requirements, neither of which existed prior to SB1158's passage. SB1158 established the criteria for both methodologies, required that the results be distributed to the same parties, and did not establish any preference between the two reporting methodologies. The only difference between the two methodologies is SB1158's requirement that reported GHG

[77] ISOR, p. 52.

emissions also be reported in a lb/MWh format, something SB1158 did not require (but also did not preclude), but can be easily calculated, for avoided GHG emissions.

The ISOR's discussion continues to confuse the difference between reported and avoided GHG emissions. Avoided GHG emissions do not "offset" a retail seller's GHG emissions used to serve its retail load.[78] Instead, they reduce and offset the GHG emissions of the overall electric system. This is the goal of SB100 to achieve a 100% GHG-free electric system, not that each individual retail seller achieves the 100% target. Thus avoided GHG emissions are equally valuable in achieving California's GHG-free goals and should be assigned comparable value.

d. <u>The uses of the hourly data should be in the regulations.</u>

Public Utilities Code Section 398.6 specifies the uses and limits of the hourly data..[79] These requirements should be included in the regulations. As noted in the ISOR, neither SB1158's hourly GHG-emission intensity nor its avoided GHG emissions are to be reported on the PCL.[80]

<u>Conclusion</u>

The SFPUC appreciates the opportunity to comment on the proposed regulations and looks forward to developing the final regulations.

Sincerely,

James Hendry
Regulatory & Legislative Compliance

Dan Willis
Regulatory and Legislative Compliance
dwillis@sfwater.org

[78] Ibid.
[79] PU Code 398.6(d), (e) and (g)(2) provide that the hourly information shall be provided to the CPUC and local governing boards for evaluating their procurement, to CARB and the CAISO, and posted on the CEC's web-site subject to confidentiality concerns. (PU Code 398.6(h)).
[80] ISOR, p. 52.